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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,409	09/06/2000	Scott S. Campbell	19603/1656	9516

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Gunnar G Leinberg Esq
Nixon Peabody LLP
Clinton Square P O Box 31051
Rochester, NY 14603

EXAMINER

MATTHEWS, WILLIAM H.

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 12/20/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/656,409

Applicant(s)

CAMPBELL ET AL. CR

Examiner

William H. Matthews (Howie)

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-35 and 53-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-34 and 53-57 is/are rejected.
- 7) ☒ Claim(s) 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

1. U.S. Patent document item 20 is in error. The examiner has regarded the intended document number to be U.S. Patent No. 5,327,331 to Roberts.
2. At this time, items 31 and 33-50 have not been reviewed. Copies of these references are not available to the examiner at this time because Serial No. 09/074,455 is currently unavailable.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 28-34 and 53-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Czeisler et al. (5,304,212).

Regarding claims 28-34, Czeisler et al. discloses a method of adjusting the circadian rhythm. Lines 29-37 of column 1 describe the elements of human alertness and performance that can be affected by the circadian cycle. Lines 4-51 of column describe the benefits of assisting rotating shift workers as well as permanent shift workers at night. Lines 35-39 of column 28 describe the lighting source as non-solar and within the range of 15 to 150,000 lux. Lines 9-36 of column 42 describe a duration of light exposure within the range of claim 31. Furthermore, the light source is described as cabin light within an airplane. Therefore, this light would both expose a

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substantially non-ocular region of the human subject having ample surface vasculature (the face, neck, and hands) and the light has a bandwidth in the visible spectrum.

Regarding claims 53-57, Czeisler et al. discloses a system comprising a temperature measuring system (lines 30-54 of column 13) and non-solar photic stimulation generating system (lines 20-65 of column 62) that activates upon an assessed time to adjust the circadian cycle of a human. Line 59 of column 39 to line 9 of column 40, figure 11, and figure 15b describe various times when light exposure begins. The assessed time of the minimum body temperature is shown in figure 11 as ECP_{min} . Regarding claims 54-57, figure 11 shows the time of exposure occurring between about 6 hours before to 6 hours after the assessed time, ECP_{min} . Lines 6-8 of column 40 further describe a second pulse of 3500-6000 lux light beginning five hours after the initial pulse.

Claim Objections

3. Claim 34 is objected to because of the following informalities: "vaculature" should be replaced with "vasculature". Appropriate correction is required.

Allowable Subject Matter

4. Claim 35 would be allowable if written in independent format.

The following is an examiner's statement of reasons for allowance: The claimed subject matter is both novel and unobvious in view of the prior art.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Matthews (Howie) whose telephone number is 703-305-0316. The examiner can normally be reached on Mon-Fri 7:00-4:30 (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2708 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



WHM
December 13, 2001



**Paul B. Prebitt
Primary Examiner**